

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonathan Kaminsky	Team: Team # 7	CCRB Case #: 200205797	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/18/2002 12:45 AM	Location of Incident: East 140th Street & Morris Avenue	Precinct: 40	18 Mo. SOL 2/18/2004	EO SOL 2/18/2004	
Date/Time CV Reported Tue, 08/20/2002 1:32 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/29/2002 4:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Demonte	19559	925184	Public Service Area 7
2. Officer			Public Service Area 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vincent Commisso	29818	915484	Public Service Area 7
2. POM Michael Flower	27281	913948	Public Service Area 7
3. SGT Angela Morris	04505	900519	Public Service Area 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Demonte	Force: PO Anthony Demonte struck § 87(2)(b) with a vehicle.	
B.POM Anthony Demonte	Force: PO Anthony Demonte struck § 87(2)(b) with a blunt instrument.	
C.POM Anthony Demonte	Force: PO Anthony Demonte used physical force against § 87(2)(b)	
D. Officer	Abuse: An officer damaged § 87(2)(b) property.	

Synopsis

In this case, § 87(2)(b) inebriated and straddling his bicycle, was urinating against the wall of a building on the corner of 142 Street and Morris Avenue in the Bronx early on the morning of August 18, 2002. At this time, a marked van operated by PO Anthony Demonte, and containing PO Michael Flower and PO Vincent Commisso, all of Public Service Area 7, stopped near § 87(2)(b) with PO Demonte telling § 87(2)(b) to approach the van. Instead, § 87(2)(b) rode away from the van, leading the officers on a seven-block long pursuit, to the corner of 138 Street and the Grand Concourse. It has been found that § 87(2)(b) was tackled and taken to the ground by PO Flower. All of the officers helped place the handcuffs on § 87(2)(b) who was resisting arrest. § 87(2)(b) alleges that PO Demonte, seated next to him in the van, punched him repeatedly in the ribs and struck him with a blunt metal object to the back of the head. § 87(2)(b) also alleges that the officers damaged his bicycle after bringing it back to the Public Service Area 7 stationhouse. § 87(2)(b) initially filed his complaint with Internal Affairs. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

§ 87(2)(b) was interviewed at the CCRB on September 30, 2002. (enclosure 7) His statement from that interview is summarized below. Before this, § 87(2)(b) was interviewed via telephone by Sgt. Richard Rudolph of Internal Affairs. This interview took place on August 20, 2002. (enclosure 6)

§ 87(2)(g)

§ 87(2)(b)

On August 18, 2002, at 0040 hours, § 87(2)(b) was urinating against the wall of Western Beef, located at corner of 140th Street and Morris Avenue. He was stationary but on his bicycle while urinating. He was intoxicated, having consumed five alcoholic beverages of Smirnoff Gin (sic) and orange juice, since 2300 hours of that night. A marked police van pulled up behind § 87(2)(b) and gave off a “whoop whoop” sound. § 87(2)(b) looked at the van but could not stop urinating at that point, and finished. This took him another fifteen seconds. Once having finished, § 87(2)(b) started to ride his bicycle. He rode down Morris Avenue for two blocks until he reached 138th Street, heading back to 21 East 107th Street, which, he notes, is one of his three homes. The van pursued him, although “they never yelled stop or anything over the mic[rophone],” § 87(2)(b) states, noting that “I wasn’t really thinking about them at the time. I was intoxicated.” He states that he noticed the van coming up from behind him, “doing 50 MPH.” The front passenger side of the van hit § 87(2)(b) while he was riding his bicycle. He remained on his bicycle and continued on however, looking over at the van with a look on his face indicating “what are you trying to do, kill me?” § 87(2)(b) continued biking for an additional two blocks. The van then pulled in front of § 87(2)(b) and the front passenger-side door opened. § 87(2)(b) crashed into the door and went to the floor, thrown from his bicycle. The bruised shoulder and the scraped-up knee were sustained at this time as a result of his fall. At this time, three uniformed white male officers exited the van. § 87(2)(b) was lying face-down in the street less than five feet from the front passenger door of the van.

The officers grabbed § 87(2)(b) arms, placed them behind his back, and handcuffed him. § 87(2)(b) did not see specifically which officer(s) handcuffed him. In the course of handcuffing § 87(2)(b) an officer put a knee in his face. § 87(2)(b) does not know which officer did this. § 87(2)(b) was at this time yelling that he was not resisting arrest. He states that he was not physically resisting at this (or, for that matter, any other) time. Once handcuffed, the three officers aggressively placed § 87(2)(b) into the back of the van. He went into the van head-first, and was facing down and away from the passenger-side door that he entered. § 87(2)(b) handcuffs were on too tight. He was repeatedly begging the officers to loosen the cuffs. This was to no avail. § 87(2)(b) states that he still has numbness in his left ring and middle fingers as a result of the handcuffs being placed on his hands too tightly.

§ 87(2)(b) states that “the intoxication started to take over,” and that “I lost it after that.” When asked to qualify this, § 87(2)(b) states that “I didn’t do anything, there was nothing that I could do.” PO Demonte, a uniformed male Italian officer who § 87(2)(b) identified by the name on his shield, who

was in the back of the van with § 87(2)(b) punched his head. He then began to punch § 87(2)(b) repeatedly in the ribs. § 87(2)(b) sustained bruising to the ribs as a result of these punches. § 87(2)(b) repeatedly screamed his request that his cuffs be loosened. At this time, PO Demonte struck § 87(2)(b) once in the back of the head with a metal object that § 87(2)(b) thought was a gun. § 87(2)(b) sustained a laceration to the top of his head as a result of this blow. “That blow snapped all of the liquor out of me,” § 87(2)(b) explains, and he turned and looked at PO Demonte “dead in his eyes,” and asked, “What the fuck are you trying to do to me? You’re trying to kill me. Then you take those cuffs off and you fight me fairly. If not, then you just take me to the precinct and you arrest me.” After this, PO Demonte stopped striking § 87(2)(b). § 87(2)(b) estimates that PO Demonte was striking him in the ribs for approximately two to three minutes, after which time he struck him with the metal object. PO Demonte did not strike § 87(2)(b) for the last seven to eight minutes in the van. During this latter time in the van, § 87(2)(b) kept his head down and did not say anything. He was breathing very heavily because of the tightness of the handcuffs. He heard one of the officers say, “Wow, he’s a wild one!” § 87(2)(b) is not certain which officer said this. § 87(2)(b) estimates that there were two additional officers in the back of the van in addition to PO Demonte. He is not certain of this, however. There may only have been one. These officers were in uniform and were white males. There were two officers in the front of the van. These were also white males in uniform.

The van arrived at the Public Service Area 7 headquarters. § 87(2)(b) was brought inside and placed inside of a prison cell where he remained for approximately forty-five minutes. His handcuffs remained tightened. § 87(2)(b) was then transported to § 87(2)(b) by a female black officer, PO Greene, and a male Hispanic officer whose name he does not know. PO Greene loosened § 87(2)(b) handcuffs. Before leaving, he insisted to PO1, one of the officers in the van with spiky black hair, that he get a property voucher for his bicycle. PO1 (likely PO Flower but possibly PO Commisso) gave § 87(2)(b) the property voucher.

§ 87(2)(b) was transported to § 87(2)(b), where he was treated for his injuries, although he refused the recommended stitches for his head wound. He remained at the hospital for approximately one hour. He was then brought to Bronx central booking. Central booking was already full, so he was brought to another precinct, uptown in the Bronx, where he was processed through the system. He was released during the day on August 19, 2002.

At some point before he arrived at the PSA headquarters, a fruit knife was removed from § 87(2)(b) person, as was a small blue plastic “dime” bag of marijuana. (These items were never vouchered and § 87(2)(b) was not charged with possession of marijuana § 87(2)(g)

§ 87(2)(b) states that he saw his bike just after being arrested and again some time (although he can’t remember how long, it was no more than two days) after he was released. He states that in the first instance his bicycle was in fine shape, but that when he went back to get his bike, sometime in the following days, it had been damaged. The brake cables had been cut, the tires had been stabbed (with § 87(2)(b) own knife, as he recognized the knife marks), and the accessories pouch that was attached to the bicycle was missing. § 87(2)(b) has since had his bicycle repaired. He does not have a receipt for these repairs.

§ 87(2)(b) went to criminal court on § 87(2)(b). He states that he does not know what he was charged with, and that no one told him what he was charged with. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) IAB Statement

As noted above, § 87(2)(b) initially filed this complaint with Internal Affairs and was interviewed by Sgt. Rudolph of Internal Affairs on August 20, 2002. § 87(2)(g)

First, § 87(2)(b) states to CCRB that PO Demonte struck him with a blunt metal object once both were inside of the van. In his IAB interview, § 87(2)(b) makes it clear that this occurred while he was still on the ground, outside of the van.

Second, § 87(2)(b) in his CCRB statement alleges that PO Demonte punched him repeatedly about the rib area while they were in the van. To IAB, § 87(2)(b) states that none of the officers punched him at any time, and that the bruising that he sustained about the ribs was caused by his going to the ground from his bicycle and from his “kicking and squirming” after being handcuffed.

Third § 87(2)(b) makes no allegations about his bicycle to IAB.

Finally, § 87(2)(b) in his initial IAB statement, never stated that he was struck by the van during the pursuit. He did state that this occurred in his IAB phone interview, and reiterated this allegation in his CCRB interview statement.

Results of Investigation

Civilian Statements

EMT Statements

Upon § 87(2)(b) arrival at the stationhouse, PO Demonte called for EMS to respond in order to treat § 87(2)(b) head wound. Two FDNY EMTs arrived at the stationhouse just before § 87(2) hours. These EMTs, § 87(2)(b) and § 87(2)(b) were interviewed at CCRB in connection with this investigation. EMT § 87(2)(b) was interviewed on December 19, 2002. (enclosure 8) EMT § 87(2)(b) was interviewed on December 23, 2002. (enclosure 9) Upon responding to the stationhouse, the EMTs found the prisoner in question, a male black (identified by the investigator and hereafter referred to as § 87(2)(b) in a cell. EMT § 87(2)(b) asserts that § 87(2)(b) was in handcuffs, which indicated to him that § 87(2)(b) was likely violent. EMT § 87(2)(b) does not recall § 87(2)(b) being in handcuffs. Both EMTs recall § 87(2)(b) having a laceration to the back of the head, not much larger than one inch in length. EMT § 87(2)(b) recalls there being a small amount of blood, noting that one or two stitches would be required to close the wound. EMT § 87(2)(b) states that there was no blood. EMT § 87(2)(b) recalls § 87(2)(b) complaining that the officers had beaten him up. He was not specific in saying what the officers had done to him. EMT § 87(2)(b) does not recall § 87(2)(b) making any allegations against any of the officers involving excessive physical force. § 87(2)(b), § 87(2)(g)

Both state that he was clearly drunk and was very belligerent. EMT § 87(2)(b) states that § 87(2)(b) told EMT § 87(2)(b) that they would meet in the street and resolve things then. EMT § 87(2)(b) states that § 87(2)(b) also called EMT § 87(2)(b) who is black, an “Uncle Tom.” The EMTs offered to take § 87(2)(b) to the hospital to treat his head wound. He initially refused, but then decided to go. He was belligerent throughout. EMT § 87(2)(b) recalls that a bald white male officer in uniform told § 87(2)(b) that if he “had not fought back then none of this would have happened.” EMT § 87(2)(b) did not hear the context of this statement, nor did he hear anything else said by any party that seemed to relate to that statement.

§ 87(2)(b) was very concerned about his bicycle, which he had been riding when the officers apprehended him. He was asking the officers to make certain that he got his bicycle back. It seemed to EMT § 87(2)(b) that § 87(2)(b) was more concerned about his bicycle than he was with his injury. After close to an hour at the stationhouse, the EMTs removed § 87(2)(b) to § 87(2)(b). Once § 87(2)(b) was brought to the triage, the EMTs left him there.

EMT § 87(2)(b) states that it is unlikely that the laceration to the back of § 87(2)(b) head was caused by a punch, much less by the force of a blunt object, as it was such a small wound. He states that he is not certain what caused the laceration, but it could have happened when § 87(2)(b) fell off of the bicycle.

Officer Statements

All officers interviewed in connection with this incident are from Public Service Area 7. PO Anthony Demonte was interviewed at the CCRB on November 21, 2002. (enclosure 11) PO Michael Flower was interviewed December 10, 2002. (enclosure 14) PO Vincent Commisso was interviewed on December 12, 2002. (enclosure 12) Sgt. Angela Morris was interviewed on December 24, 2002. (enclosure 15) Their statements are summarized below in chronological fashion.

Previous to § 87(2)(b) Arrest

PO Demonte, PO Commisso, and PO Flower worked an 1800 by 0235 hours tour on August 17 and 18. They were assigned to a marked van, RMP# 9510, and they were all in uniform. At approximately 0140 hours § 87(2)(g), the officers were driving northbound on Morris Avenue. They all observed, on 142 Street off of Morris Avenue, a male black (later identified by the officers as § 87(2)(b)) urinating against a building while straddling a bicycle. PO Demonte, who was the driver at the time, drove up behind § 87(2)(b) and sounded his wail in order to get his attention. § 87(2)(b) ignored this and finished urinating for another several seconds. When he was done, he either turned his rear bicycle light on (according to PO Flower) or off (according to PO Commisso). He then rode off southbound down Morris Avenue. PO Demonte pulled a U-turn and pursued him with the van. § 87(2)(b) turned right on 139 Street, now headed westbound. He turned left on Rider Avenue and went south one block to 138 Street. He turned right on 138 Street, going westbound until arriving at the entrance to the Grand Concourse. All officers maintain that the van at no time during the pursuit came into contact with § 87(2)(b). At the entrance to the Grand Concourse, the chase came to an end. (see the map of the route of the pursuit, enclosure 24)

§ 87(2)(b) Arrest

PO Demonte and PO Commisso

PO Demonte and PO Commisso both state that § 87(2)(b) fell off of the bicycle without the officers or their vehicle coming into contact with him. PO Commisso states that § 87(2)(b) fell off of the bicycle to his right. PO Demonte and PO Commisso state that once § 87(2)(b) was on the ground, the van stopped and the officers all exited it. Both PO Demonte and PO Commisso maintain that § 87(2)(b) started to get up off the ground and looked to be attempting to flee again. PO Demonte states that he took one of § 87(2)(b) arms and attempted to place it behind his back, and that PO Flower and PO Commisso also attempted to handcuff § 87(2)(b). PO Commisso states that he sat on § 87(2)(b) legs and grabbed his right arm. He states that PO Flower came over and took a hold of § 87(2)(b) left arm. PO Commisso states that he and PO Flower were able to place § 87(2)(b) in handcuffs at this time. Both PO Demonte and PO Commisso state that § 87(2)(b) was difficult to handcuff, and that it took several seconds to do so. PO Commisso states that § 87(2)(b) resisted arrest by flailing his arms. PO Demonte states that none of the officers placed a knee in the face of § 87(2)(b) while attempting to handcuff him. Outside of attempting to place his arms behind his back, PO Demonte states, no force was used against § 87(2)(b) while he was being handcuffed.

PO Demonte recovered a silver gravity knife from § 87(2)(b) back pocket. PO Demonte states that after removing the knife from § 87(2)(b) person, he lifted the handcuffed § 87(2)(b) off of the ground and walked him over to the police van. PO Demonte states that he placed § 87(2)(b) into the van. § 87(2)(b) put his feet out in order to avoid being placed into the van. Only minimal force was necessary in this process. PO Commisso states that he and either PO Flower or PO Demonte placed § 87(2)(b) into the van, and that § 87(2)(b) made them drag him over to the van and then lift him into it. Neither officer observed any injuries to § 87(2)(b) at this time. § 87(2)(b) was not complaining of injuries, nor that his handcuffs were placed on too tightly.

PO Flower

PO Flower states that at the end of the pursuit, § 87(2)(b) attempted to turn his bicycle around and ride off in the other direction. The van slowed to approximately three miles per hour. At this time, PO Flower, seated in the front passenger seat, opened his door and jumped out of the van on top of § 87(2)(b) who then fell off of his bicycle. PO Flower states that he landed on top of § 87(2)(b) and that § 87(2)(b) landed on the ground. PO Flower wrestled with § 87(2)(b) on the ground. § 87(2)(b) was violently resisting arrest by flailing his arms, kicking his legs, and attempting to get off of the ground and flee the scene. PO Flower hit § 87(2)(b) about the arms in an attempt to gain compliance. He did not strike § 87(2)(b) in the head at any time, nor did any of the other officers do so. PO Flower is not certain if any of the other officers struck § 87(2)(b) but they both assisted in attempting to handcuff him. It took approximately fifteen seconds to handcuff § 87(2)(b). PO Demonte then placed § 87(2)(b) into the back of the vehicle and got into the vehicle with him. PO Flower states that § 87(2)(b) “had absolutely no physical injuries on him” as he was placed into the vehicle.

Subsequent to § 87(2)(b) Arrest, in the Van

PO Demonte, PO Commisso, and PO Flower

PO Flower placed § 87(2)(b) bicycle into the back of the van. He believes that the front wheel was separated from the rest of the bicycle at this time. PO Commisso states that the bike was to his recollection not damaged. PO Demonte states that he does not recall the condition of the bicycle, although his memo book entry states that there was damage to the base of the bicycle. (enclosure 10)

PO Flower then got in the operator’s seat. PO Demonte placed § 87(2)(b) behind the operator, two rows back. He sat next to § 87(2)(b). PO Commisso sat in front of § 87(2)(b) directly behind PO Flower. They proceeded to drive to the Public Service Area 7 stationhouse, located on 156 Street. The ride took between five and ten minutes. § 87(2)(b) was belligerent at this time, making statements that he § 87(2)(b) was going to kill all of them. None of the officers recall § 87(2)(b) complaining of his handcuffs being too tight. All of the officers state that § 87(2)(b) was, in addition to his belligerence, squirming in his seat and attempting to move about. PO Demonte states that shortly after they started driving, § 87(2)(b) attempted to stand up. PO Demonte placed one hand on § 87(2)(b) right shoulder and one hand on his waist area. He also had his leg against § 87(2)(b) right leg. This was all in an attempt to keep § 87(2)(b) seated still. PO Demonte did not use any other force other than taking these measures. PO Commisso states that § 87(2)(b) attempted to stand up. He states that he placed his hands on § 87(2)(b) chest, as did PO Demonte, in order to keep § 87(2)(b) seated. PO Flower recalls that PO Demonte subdued § 87(2)(b) by putting his hands on § 87(2)(b) legs. All officers state that none of them at any time struck § 87(2)(b) while in the van. All officers deny that PO Demonte struck § 87(2)(b) to the head with a blunt metal object.

At the Stationhouse

PO Demonte, PO Commisso, and PO Flower

Once at the stationhouse, PO Commisso states that he and PO Demonte escorted § 87(2)(b) to the desk. PO Commisso states that he still did not observe any injury to § 87(2)(b) at this time. PO Demonte states that he then brought § 87(2)(b) to a cell. It was at this time that PO Demonte observed an inch-long laceration to the back of § 87(2)(b) head. There was blood trickling down the side of his head. PO Demonte notified a supervisor of this injury. PO Demonte does not know how § 87(2)(b) suffered this injury and does not believe that he spoke with a supervisor about how the injury was sustained. PO Flower also observed the laceration, and recalls there being blood. PO Flower surmises that the injury was sustained when PO Flower brought § 87(2)(b) to the ground in the course of tackling him. PO Demonte called for an ambulance. EMS arrived at the command within ten minutes and treated § 87(2)(b) there. Both PO Commisso and PO Flower state that they had no further contact with § 87(2)(b) once he was placed in the cell. § 87(2)(b) was brought by EMS to § 87(2)(b) for treatment. § 87(2)(b) was charged § 87(2)(a) 160.50. PO Demonte was the arresting officer, and prepared all paperwork in connection with the arrest.

None of the officers recall what happened to the bike when they returned to the stationhouse. They all maintain that they did no damage to the bicycle.

The following day, PO Flower informed PO Commisso that § 87(2)(b) had sustained a cut to the back of his head. PO Commisso is not certain of how this cut was sustained.

Sgt. Morris

On August 18, 2002, Sgt. Morris was the tour one Public Service Area 7 desk sergeant. At approximately 0145 hours, when § 87(2)(b) was brought to the stationhouse by PO Anthony Demonte, PO § 87(2)(b) Flower, and PO Vincent Commisso, Sgt. Morris was upstairs doing an inventory check. Lt. § 87(2)(b) Davidson covered for her while she was gone. When, a short time later, Sgt. Morris returned downstairs, PO Demonte, the arresting officer, told her that § 87(2)(b) had a laceration on his head, and that he had called for EMS. Sgt. Morris could hear § 87(2)(b) yelling from the cell area, where he was being held. He was saying, "I was only pissing!" and "I want a receipt for my bike." Sgt. Morris does not recall § 87(2)(b) saying anything about being injured. At one point, before EMS arrived, Sgt. Morris went back to the cell area to try to calm § 87(2)(b) down. He was belligerent to her when she spoke with him, and she gave up. She does not believe that he was handcuffed when she entered the cell area. She did not observe any injuries to any part of his body during the brief time that she was in the cell area. EMS arrived at the scene shortly thereafter and after some time at the stationhouse, they removed § 87(2)(b) to the hospital. Sgt. Morris instructed PO Michelina Maldonado to escort § 87(2)(b) and EMS.

§ 87(2)(b) bicycle was placed behind the desk upon his and the officers arrival at the stationhouse. It remained there until § 87(2)(b) came to pick it up § 87(2)(g), after Sgt. Morris had ended her tour. The bike appeared to be in fine shape when it was brought in to the stationhouse, and Sgt. Morris does not recall anything happening to the bike while she was behind the desk.

Medical Records

Ambulance Call Report (enclosure 16)

The Ambulance Call Report (ACR), prepared by EMTs § 87(2)(b) and § 87(2)(b) shows that they received the call at § 87(2)(b) hours on § 87(2)(b), and that they arrived at the Public Service Area 7 stationhouse at § 87(2)(b) hours. It further shows that § 87(2)(b) sustained a laceration to the back of the head (described as a "scratch"), and that his chief complaint was that "I was resisting arrest." It notes that he was inebriated. It shows that he was bleeding, and that the blood was contained by direct pressure. The ACR shows further that § 87(2)(b) was received at § 87(2)(b) at § 87(2)(b) hours.

Medical Records (enclosure 17)

The § 87(2)(b) records show that § 87(2)(b) was treated at that facility on § 87(2)(b). The laceration to the occipital region of his head is noted, and it is recommended that he receive stitches for his laceration. However, the records show that § 87(2)(b) discharged himself against medical advice. He was released at § 87(2)(b) hours.

Police Documents

Medical Treatment of Prisoner Form (enclosure 18)

In the portion of the Medical Treatment of Prisoner form prepared by PO Demonte, it states that "while resisting arrest, § 87(2)(b) received [an] injury to [the] back of his head." In a portion of the form filled out later (possibly by § 87(2)(b) at § 87(2)(b), whose name appears on the form), it states that § 87(2)(b) "refused medical treatment in emergency department," and that he "is alert and oriented."

Arrest Report (enclosure 19)

§ 87(2)(b) arrest report indicates that he "was urinating in public view," and that "upon being apprehended § 87(2)(b) did resist arrest by flailing [his] arms and refusing to place [his] hand behind [his] back. He was charged § 87(2)(a) 160.50 § 87(2)(b) PO Demonte is listed as the arresting officer.

Command Log Entry (enclosure 20)

The Command Log shows that Sgt. Morris was the desk sergeant at the time in question. It lists PO Demonte as the arresting officer. Under "Physical/Mental Condition," "Appearance Normal" was written in

and then crossed out. Written in instead is "Injury to Rear of Head." It is also noted that § 87(2)(b) was removed by EMS to § 87(2)(b) at § 87(2) hours, and that PO Michelina Maldonado escorted him.

Prisoner Holding Pen Roster (enclosure 21)

The Prisoner Holding Pen Roster shows that § 87(2)(b) was logged in at 0145 hours and that he was logged out at § 87(2) hours. He was at this time transported to § 87(2)(b) by EMS. PO Flower is listed as the officer guarding § 87(2)(b)

Property Vouchers (enclosure 22)

PO Demonte prepared two property vouchers in connection with § 87(2)(b) arrest. The first lists one black Cannondale mountain bike and one Aiwa personal tape player with earphones. The condition of the bicycle is not mentioned. The second property voucher lists one four-inch silver gravity knife.

Communications Records

The request for communications records in connection with this incident was met with negative results. The Sprint Index was reviewed and placed in the Do Not Copy file.

IAB Photographs (enclosure 23)

Internal Affairs conducted a call-out to § 87(2)(b) home three days after the incident, on August 21, 2002. Five polaroid photographs were taken and copies of these were forwarded to the CCRB. One is of § 87(2)(b) face, two are of the back of his head, one is of his torso and one is of his hands. The polaroids are of poor quality, and it is difficult to see the injury to § 87(2)(b) head from them. The photograph of § 87(2)(b) torso does not show any injury. The photograph of § 87(2)(b) hands does show a small laceration to his right wrist.

Criminal Court Documents

Conditional Discharge Form (enclosure 25)

§ 87(2)(a) 160.50
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Internal Affairs Investigating Officer's Reports (enclosure 28)

In the Internal Affairs Investigative Officer's Report dated August 20, 2002 at 2100 hours, Sgt. Rudolph, the investigating officer at the time, conferred with the IAB Command Center to confirm that § 87(2)(b) allegation that he was hit with the police van, which he made in his IAB statement (and again in his CCRB statement) was not contained in the original complaint to the Command Center. The audiotapes were reviewed and it was confirmed that § 87(2)(b) never mentioned being hit with the van in his initial statement to IAB.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Conclusions & Recommendations

Credibility Assessment

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g). In his initial statement to Internal Affairs, he made no mention of being hit with the police van during the five block pursuit. He made this allegation in his IAB interview and again to CCRB. § 87(2)(g)

§ 87(2)(b). In his IAB interview, § 87(2)(b) states that he was brought to the ground by the three officers after he was slowed (but not knocked over) by crashing into the front passenger door of the van. In his CCRB interview statement, § 87(2)(b) states that he went to the ground as a direct result of crashing into the van door. § 87(2)(g) § 87(2)(b) states in his IAB interview that PO Demonte struck him with a blunt metal object to the back of

the head while he was still on the ground, outside the van. In his CCRB statement, however, he alleges that this occurred after he was placed inside of the van. In his IAB interview, § 87(2)(b) states clearly that other than the one blow to the back of the head, he was not struck by any of the officers. In his CCRB interview, § 87(2)(b) states that PO Demonte punched him repeatedly about the ribs before striking him in the back of the head with the blunt metal object.

§ 87(2)(g) § 87(2)(b) acknowledges that he had been drinking and was inebriated when he came into contact with the officers. § 87(2)(g). He states that after PO Demonte struck him in the back of the head, he was no longer drunk, that “that blow snapped all the liquor out of me.” However, according to statements from both EMTs who treated him at the stationhouse, § 87(2)(b) was obviously inebriated and was behaving in an irrational manner, as when, according to EMT § 87(2)(b), § 87(2)(b) lashed out at EMT § 87(2)(b) calling him an “Uncle Tom” and offering to fight him in the street.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(g)

PO Flower

§ 87(2)(g). He is the only officer who acknowledges having struck § 87(2)(b) which he states he did about § 87(2)(b) arms, in an effort to handcuff him. § 87(2)(g)

While the other officers maintain that § 87(2)(b) simply fell off of his bicycle, PO Flower states that he himself tackled § 87(2)(b) to the ground while § 87(2)(b) was still on his bicycle.

PO Demonte and PO Commisso

§ 87(2)(g). Both state that § 87(2)(b) fell off of his bicycle of his own accord. § 87(2)(g)

Similarly, both PO Demonte and PO Commisso state that none of the officers did strike § 87(2)(b) at any time during the arrest. § 87(2)(g). However, PO Flower acknowledges having struck § 87(2)(b) and states that he is unsure if either of the other officers did so. Like PO Flower, PO Demonte and PO Commisso both state that § 87(2)(b) was actively resisting being handcuffed.

§ 87(2)(g) all of the officers state that they were not aware of the injury to the back of § 87(2)(b) head until he was at the stationhouse (or in the case of PO Commisso, not until the following day, when PO Flower told him of the injury). PO Demonte states that he did not observe § 87(2)(b) injury until after he had brought him to the desk, and had placed him in the cell. He states that he then informed a supervisor of the injury and called EMS. § 87(2)(g)

Determination of Fact

The following fact pattern is not in dispute: Early in the morning of August 18, 2002, § 87(2)(b) had consumed several alcoholic beverages and, straddling his bicycle, he was urinating against the wall of building near the corner of 142 Street and Morris Avenue in the Bronx. RMP# 9510, a marked van operated by PO Demonte, with PO Flower as the recorder and PO Commisso in the back, approached § 87(2)(b). PO Demonte sounded the wail on the van, and, rolling down his window, asked § 87(2)(b) to approach the van. § 87(2)(b) ignored the officers and rode away on his bicycle, leading the officers on a five-block chase that ended at the entrance to the Grand Concourse.

§ 87(2)(b) in his CCRB statement and his IAB interview statement, maintains that the police van rammed him during the pursuit. All three officers deny this happening. § 87(2)(b) himself made no mention of coming into contact with the van in his initial IAB statement. Neither do either of the EMTs or the desk sergeant recall § 87(2)(b) making such an allegation. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

In his IAB interview, § 87(2)(b) states that the door to the van opened in front of him, that he ran into it, and that he was then brought to the ground by the three officers. In his CCRB statement, § 87(2)(b) states that running into the door knocked him over. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

There are several versions of events of what happened next. § 87(2)(b) himself offers two of these. He does not admit to resisting arrest in either his IAB interview or his CCRB interview statement. However, he states to IAB that PO Demonte struck him once to the back of the head with a blunt metal object while he was still on the ground outside of the van, while at the CCRB he states that this occurred inside of the police van. To CCRB (but not to IAB) § 87(2)(b) states that an officer placed a knee in his face while he was being handcuffed. Each officer admits to playing a role in the handcuffing of § 87(2)(b). PO Commisso states that he sat on § 87(2)(b) legs and grabbed one of his arms. PO Demonte states that he and the other two officers all were attempting to get § 87(2)(b) hands behind his back and that no force was used other than the minimum physical force necessary to get § 87(2)(b) hands behind his back. PO Flower alone states that he struck § 87(2)(b) hands and arms in an attempt to gain his compliance. None of the officers state that a knee was placed in § 87(2)(b) face. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) The officers all state that § 87(2)(b) refused to cooperate with PO Demonte's attempts to walk him over to the van and place him inside it by not walking and by not voluntarily placing his feet inside of the van.

One of the officers placed the bicycle in the back of the van. PO Flower states that the front wheel may have come off from the rest of the bicycle. Neither PO Commisso nor PO Demonte recall any damage to the bicycle at this time, although PO Demonte's memo book notes damage to the base of the bicycle. § 87(2)(b) states that the bicycle was in good shape at this time. Sgt. Morris states that when she observed the bicycle at the stationhouse, it seemed to be in good shape. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g) PO Flower was the operator, and PO Commisso sat in the row between PO Flower and the other two. § 87(2)(b) states that he was complaining of his handcuffs being too tight. None of the officers recall this. § 87(2)(b) states to CCRB that PO Demonte at this time began striking him several times with closed fists about the ribs. He states that PO Demonte then struck him in the back of the head with a blunt metal object. § 87(2)(b) did not make any allegations of excessive force used against him in the van to IAB. PO Demonte denies striking § 87(2)(b) at any time in the van, as do the other officers. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g) Additionally, the injury that he sustained to the back of his head, according to EMT § 87(2)(b) was, due to its small size, not likely to have come from a blunt object such as the butt of a gun or a police radio. Further, there is no indication in the medical records (nor any recollection on the part of EMTs § 87(2)(b) and § 87(2)(b) that § 87(2)(b) made such an allegation) of there being any injuries to § 87(2)(b) rib area. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

None of the officers recall who brought the bicycle into the stationhouse upon their return, but the bicycle was brought inside by one of them. It was from this time forth under the supervision of Sgt. Morris, who remained at the stationhouse until 0800 hours, long after the three officers had ended their tours. Sgt. Morris recalls no apparent damage to the bicycle when she first saw it. To her recollection, the bicycle was still in good shape when she left at 0800 hours. § 87(2)(b) alleges that when he came to retrieve his bicycle within two days of having been released, the brake cables had been cut, the tires had been stabbed (with § 87(2)(b) own knife, as he recognized the knife marks), and the accessories pouch that was attached to the bicycle was missing. § 87(2)(b) claimed at the time of his CCRB interview that he had already had the bicycle repaired. However, he was unable to produce a receipt for the repairs. § 87(2)(b) made no mention of damage to his bicycle in his IAB interview. § 87(2)(b), § 87(2)(g)

Allegation [A] PO Anthony Demonte struck § 87(2)(b) with a vehicle.

§ 87(2)(b), § 87(2)(g)

Allegation [B] PO Anthony Demonte struck § 87(2)(b) with a blunt instrument

§ 87(2)(b), § 87(2)(g)

Allegation [C] PO Anthony Demonte used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation [D] An officer damaged § 87(2)(b) property

§ 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: